



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Agenda

Meeting of May 11, 2005

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

ROUTINE BUSINESS

1. Ratification of minutes of the November 4, 2004 and December 10, 2004 meetings

The staff has completed first drafts of the February 17 and March 9 meetings. It anticipates submitting all outstanding minutes for your review in the packet for the June 8 meeting.

OLD BUSINESS

2. Late Filing Penalty/Brunswick Democratic Town Committee

The Brunswick Town Democratic Committee was late in filing 24-hour reports due October 28, 2004 and November 2, 2004. The statutory penalty is capped at a maximum of \$500 (otherwise the penalty would be \$780). The committee, through its treasurer, Lars Rydell, requests a waiver of the penalty because he went into the hospital on October 25, 2004 for hip replacement surgery and apparently did not leave clear instructions with other members of the committee about the obligation to file 24-hour reports. *Staff recommendation: the Commission staff recommends reducing the penalty by 50% to \$390 because the party committee had no previous late filings during 2004.*

3. Late Filing Penalty/Kennebunkport Democratic Party Committee

The Kennebunkport Democratic Town Committee was required to file a report on January 18, 2005. The report was filed 13 days late on January 31, 2005, in response to a telephone call from the Commission staff. The statutory penalty is \$384.54. In a letter dated February 2, the committee's treasurer, Richard Van Bergen requests a waiver of the penalty because: (1) the 2004 reporting form for town committees only lists filing deadlines through 2004 and doesn't mention the January 18, 2005 deadline; (2) with an amended report that he filed on December 7, Mr. Bergen included a letter inquiring whether further reports were required to be filed with the Commission for 2004. *Staff recommendation: it is the responsibility of all party committees to learn and comply with the filing deadlines, and under 21-A M.R.S.A. Section 1017-A, the state party committees are required to notify the town and county committees of those deadlines. The staff mailed a reminder notice regarding the January 18 deadline to the last-known treasurer of the committee (not Mr. Van Bergen) who was listed on the committee's July 15, 2004 report. Because this report is the first late report since January 1, 2004, the staff recommends reducing the penalty by one-half and assessing a civil penalty of \$192.27.*

4. Late Filing Penalty/Franklin County Democratic Committee

The Franklin County Democratic Party Committee was required to file a 6-day pre-election report on October 27, 2004, because it had expenditures in excess of \$1,500 for the calendar year. The Committee filed a report on January 18, 2005, and included activity that should have been included in the October 27 report. The statutory penalty for failing to file an October 27 report is capped at \$500 (otherwise the penalty would be \$2,760.58). The Committee treasurer, Karen Schuler, requested a waiver of the penalty in a letter dated February 3, 2005 because the committee apparently never collected or spent more than \$1,500 in a calendar year and never was required to file a report before. Also, the committee did not receive a notice that a report was due. *Staff recommendation: the Commission staff recommends assessing the maximum penalty of \$500. It is the responsibility of all party committees to learn and comply with the filing requirements, and the Election Law requires the state party committees to notify the local party committees of the filing deadlines. Even reducing the \$2,760.58 penalty by 50% due to the committee's inexperience and lack of previous violations, the penalty exceeds the \$500 maximum.*

Items 5-6: Late Filing Penalties/101% Reports

Traditionally financed candidates who have a Maine Clean Election Act (MCEA) opponent are required to file additional reports so that the Commission can determine whether the MCEA opponent is entitled to receive matching funds. In the 2004 elections, traditional candidates running for the House were required to file a 101% Report within 48 hours of when their receipts or expenditures for the general election exceeded \$4,072 (101% of \$4,032 – the amount which the MCEA opponent received for the general election). The prompt filing of the 101% Report is essential because it results in matching funds being paid to the MCEA opponent. In calculating the receipts for the general election, the traditional candidates were asked to include any unspent cash that the candidate had remaining after the June 8, 2004 primary election.

5. Late Filing Penalty/Arlan R. Jodrey

Rep. Arlan R. Jodrey was a traditionally financed candidate for the Legislature in the 2004 elections. The Commission staff has made the preliminary finding that his receipts for the general election exceeded \$4,072 on October 28, 2004, and that he should have filed the 101% Report on November 1, 2004 – one day before the general election. No report was filed, so the Commission staff is recommending that the report be considered one day late. His opponent, Timothy Carter, was not eligible to receive matching funds because of independent expenditures made to support him. *Staff recommendation: the Commission staff recommends the assessment of a nominal penalty of \$50 for the late filing, because Rep. Jodrey should have filed the report regardless of the independent expenditures in the race.*

6. Late Filing Penalty/Brian M. Duprey

Representative Brian M. Duprey was a traditionally financed candidate for the Legislature in the 2004 elections. The Commission staff has made the preliminary finding that his receipts for the general election exceeded \$4,072 on October 29, 2004, and that he should have filed the 101% Report on November 1, 2004 – one day before the

general election. No report was filed, so the Commission staff is recommending that the report be considered one day late. His opponent, Mary Poulin, was not eligible to receive matching funds because of independent expenditures made in the race in support of her. *Staff recommendation: the Commission staff recommends the assessment of a nominal penalty of \$50 for the late filing, because Rep. Duprey should have filed the report regardless of the independent expenditures in the race.*

7. Over-the-Limit Contributions Given by Affiliated Companies to Rep. Joseph Bruno

On July 21, 2004, Kevin Mattson and six real estate companies associated with him each donated \$250 to Joseph Bruno's campaign for State Senate. Under 21-A M.R.S.A. §1015-A, businesses that share the majority of members of their boards of directors or are owned by the same majority shareholder are treated as a single entity for purposes of the contribution limit. The Commission staff made the preliminary determination that four of the companies should be considered two contributors (each giving \$500) because of common ownership and directors. Mr. Mattson cooperated with the Commission staff by providing information regarding the contributors, and former Rep. Bruno cooperated by promptly returning the over-the-limit contributions. *Staff recommendation: the staff recommends a finding that Rep. Bruno, Zen Investment Holdings, and Harper's Development LLC violated the contribution limit of \$250 for the general election. No civil penalty may be assessed for this violation because the statute authorizing civil penalties for this violation was not in effect at the time of the contributions.*

8. Over-the-Limit Contribution Received by Thomas White

Thomas White was a candidate for Sheriff of Franklin County in the 2004 elections. He accepted contributions of \$300 (August 13) and \$500 (October 8) from the Wilton Town Republican Committee, which totaled a contribution of \$800 from the committee for the general election. Under 21-A M.R.S.A. §1015(2), Mr. White was allowed to accept only \$250 from the committee for the general election. *Staff recommendation: the Commission staff recommends that a civil penalty of \$100 be assessed against the candidate.*

9. Request for Waiver of Late Filing Penalty/Paul Madore

In the 2004 primary election, Paul Madore was a candidate for the Democratic nomination in Senate District #16. He did not win the primary. He was required to file a post-election report on July 20, 2004. The report was filed three days late on July 23, 2004. The candidate states that he filed the report late because he was attempting to get advice from the Commission staff, and the candidate's wife has said that she attempted to file the report electronically before the July 20 deadline but had difficulties. The Commission's e-filing system cannot confirm this. The statutory penalty is \$116.34. *Staff recommendation: the Commission should reduce the penalty by 50% and assess a penalty of \$58.17, because the candidate was not late previously in 2004.*

10. Request for Waiver of Penalty for Late Annual Lobbyist Report/Jill Duson

In the 2004 legislative session, Jill Duson was the registered lobbyist for Planned Parenthood for Northern New England. Like all lobbyists, Ms. Duson was required to

file an annual report by December 30, 2004 summarizing all lobbying activities during the lobbying year ending November 30, 2004. In June 1, 2004, Christopher Quint replaced Ms. Duson as the Director of Public Affairs for the organization. He was unaware that Ms. Duson had not filed a required annual report. He filed the report on January 3, 2005, four days late. The statutory penalty for the late filing is \$200. *Staff recommendation: because Ms. Duson was not previously late in filing a report and because of turnover in her position, the staff recommends a 50% reduction and the assessment of a \$100 penalty.*

11. Request for Waiver of Penalty for Late Annual Lobbyist Report/Betsy Smith

In 2004, Betsy Smith was the lobbyist for Equality Maine. She first became a registered lobbyist in March 2004. She was required to file an annual report by December 30, 2004. The report was filed on January 4, 2005, five days late. Ms. Smith states that because she was a new lobbyist, she was unaware of the requirement to file an annual report. The statutory penalty is \$200. *Staff recommendation: because Ms. Smith was not previously late in filing a report, the staff recommends a 50% reduction and the assessment of a \$100 penalty.*

NEW BUSINESS

12. Request by Michele and Joseph Greenier

Michele and Joseph Greenier have submitted a complaint against Maine Clean Election Act (MCEA) candidates in the 2004 elections who used their first initial when registering with the Commission rather than their full first name. They have requested an investigation, and that all MCEA candidates who used their first initial return the public funds received. In spite of the Greeniers' objections, the Election Law (21-A M.R.S.A. §601(2)(H)) permits candidates to use their first initial and middle name on the ballot. *Staff recommendation: the staff recommends dismissing the complaint, and continuing the current policy that candidates must register with the Ethics Commission under the same name as they provided to the Secretary of State.*

13. Christopher M. McCarthy/Referral to Attorney General

Christopher M. McCarthy was an unenrolled candidate for the Maine House of Representatives in 2004. On June 7, 2004, he received \$4,031 in public funds under the Maine Clean Election Act. He did not file the October 27, 2004 and December 14, 2004 campaign finance reports, which should have itemized his MCEA expenditures. Instead, he filed a single report on January 12, 2005, after the Commission staff sent him multiple letters informing him that it would recommend referring him to the Attorney General for criminal prosecution. Mr. McCarthy was required to return \$845.72 in unspent MCEA funds by December 14, 2004, which he has not done to date. He has failed to pay \$3,967.85 in late filing penalties for the late October 27 and December 14 reports, or to request a waiver. *Staff recommendation: if Mr. McCarthy does not repay the owed amounts or request a waiver by May 11, the staff recommends referral of Mr. McCarthy to the Attorney General's Office for collection of the \$845.72 repayment of public funds and \$3,967.85 in late filing penalties, and that the Commission assess an additional penalty of \$1,000 for his failure to repay the public funds.*

14. Request for Waiver of Late Filing Penalty/Arthur Keenan

Arthur Keenan was the Democratic nominee for House of Representatives, District #34. He was a replacement candidate. He did not file his 42-day post-election report that was due December 14, 2004. Because of a data entry error, the Commission staff mailed four follow-up letters to an incorrect address. On April 14, 2005, the treasurer, Mary Anne Keenan, filed a provisional report (not signed by the candidate) shortly after being contacted by the Commission staff. The staff is willing to accept the report as complete, but it is 121 days late. Because of the large number of days late, the statutory penalty is \$2,169.64. *Staff recommendation: the staff anticipates receiving a request for a waiver of the penalty prior to the May 11 meeting and supports a reduction of the penalty because of the data entry error and because of the disproportionate size of the penalty.*

Other

Miscellaneous as needed.

EXECUTIVE SESSION

If necessary.

ADJOURNMENT